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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/490,903 01/25/00 LYNCH

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EXAMINER

MM91/0328

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NGUYEN, C
ART UNIT

PAPER NUMBER

2831
DATE MAILED:

03/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary	Application No. 09/490,903	Applicant(s) LYNCH, MICHAEL	
	Examiner Charlie C. Nguyen	Art Unit 2831	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|--|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 16) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it is not a single paragraph.

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 1, line 2, and claim 4, line 1, the following element "attachment means" is not described in the specification or in the drawings.

Regarding claim 6, line 1, the following element "at least one pipe" is not described in the specification or in the drawings. Therefore, claim 6 is not considered for its merit.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, line 1, the following element "voids" is confusing because it is not described in the specification or in the drawings. Examiner suggests that applicant should change "voids" to --notch-- to be consistent with "notch 7" at page 2, lines 17-18 in the specification.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clutter (4,280,013).

Regarding claim 1 as best understood, Clutter discloses in figures 1-3 an apparatus for protecting animals from contacting power lines comprising a wire (26) except for a cylindrical member for engaging a wire. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a member with any shape for engaging a wire, since more than mere change of shape is necessary for patentability. *Span-Deck Inc. v. Fab-Con, Inc.* (CA 8, 1982) 215 USPQ 835.

Regarding claim 2, Clutter further discloses a cylindrical member (cover 28) comprises a dielectric material (col. 3, lines 19-23).

Regarding claim 3, Clutter further discloses a dielectric material comprises a polymer material (col. 3, lines 19-23).

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8. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clutter (4,280,013) in view of D'Agati et al. (4,741,097).

Regarding claim 4 as best understood, Clutter discloses all the claimed invention except for at least one helical member for wrapping around said wire. D'Agati et al. teaches at least one helical member for wrapping around said wire (see figures 5, 6, and 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Clutter's apparatus by having at least one helical member for wrapping around said wire as taught by D'Agati et al. in order to keep the cylindrical member not moving along.

Regarding claim 5 as best understood, Clutter discloses in figures 1-3 a cylindrical member (cover 28) for accommodating an insulator (16) as commonly disposed on a power pole.

Claims 6 and 7 are included in this 103 rejection as best understood by the examiner.

Citation of Relevant Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Donoho et al. (5,433,029) disclosed a bird repellent apparatus for wires and the like.

Stoeckel (2,941,029) disclosed a preformed tie for fastening a line wire to an insulator.

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Hoban (3,555,625) disclosed an appliance and method for fastening an electrical conductor.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlie C. Nguyen whose telephone number is (703) 308-4801.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard, can be reached on (703) 308-3682.

The facsimile numbers for Technology Center 2800 are (703) 305-3431, (703) 305-3432.

CCN
3/20/01

 3/23/01
Dean A. Reichard
Primary Examiner